

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of ISAIAH DESCAN ALLEN,  
Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

SHERROD JORDAN,

Respondent-Appellant,

and

LETICIA RENEE ALLEN,

Respondent.

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UNPUBLISHED

May 13, 2008

No. 281645

Kent Circuit Court

Family Division

LC No. 06-051258-NA

Before: Donofrio, P.J., and Sawyer and Murphy, JJ.

PER CURIAM.

Respondent father appeals as of right from the trial court order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(a)(ii) (parent has deserted the child for at least 91 days) and (g) (parent failed to provide proper care or custody). Because clear and convincing evidence established a statutory basis for termination of parental rights and termination of parental rights was not clearly contrary to the best interests of the child, we affirm.

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination set forth in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re Sours*, 459 Mich 624, 632-633; 593 NW2d 520 (1999). If a statutory ground for termination is established, the trial court must terminate parental rights unless there exists clear evidence, on the whole record, that termination is not in the child's best interests. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 353; 612 NW2d 407 (2000). The trial court's decision terminating parental rights is reviewed for clear error. MCR 3.977(J); *Trejo, supra* at 355-357; *Sours, supra* at 632-633. A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made. *In re Miller*, 433 Mich 331, 337; 455 NW2d 161 (1989). Regard is to be given to the special

opportunity of the trial court to judge the credibility of the witnesses who appeared before it. MCR 2.613(C); *Miller, supra* at 337.

There was clear and convincing evidence to terminate respondent's parental rights pursuant to MCL 712A.19b(3)(a)(ii) because respondent had neither seen nor sought custody of Isaiah for a period exceeding 91 days. There is no evidence that respondent had any contact with Isaiah while he was in foster care. The testimony established that respondent failed to make any substantial effort to visit or communicate with Isaiah for over one year, which exceeds the period deemed presumptive of abandonment. *In re Webster*, 170 Mich App 100, 109; 427 NW2d 596 (1988). Hence, clear and convincing evidence supported the trial court's finding that termination of parental rights was warranted on the basis of abandonment.

Respondent argues that he came forward and sought custody of Isaiah but was denied. Respondent also argues the agency never attempted to conduct a home study or make other efforts to place Isaiah. Respondent's assertion is contrary to the record. Respondent was advised that if he wished to have parenting time he needed to participate in an intake appointment with the foster care caseworker who would evaluate him for suitability. Respondent would be considered for placement and in-home visitation after a home study had been completed. However, respondent never made himself available for either a home study or an intake appointment. Respondent cancelled his scheduled intake appointment and did not leave a phone number where he could be reached. The caseworker sent respondent a letter to reschedule the appointment but he never replied to her letter. After respondent cancelled the scheduled intake meeting, the caseworker never heard from him again.

Termination of respondent's parental rights pursuant to MCL 712A.19b(3)(g) was also appropriate. Respondent failed to provide proper care and custody of Isaiah and there is no evidence that he will be able to do so within the near future. Respondent did not put forth any effort to make sure he could visit Isaiah or have custody of him. Respondent left Isaiah in foster care for over one year instead of demonstrating that he was committed to caring for Isaiah.

Respondent was sent a parent-agency agreement on November 3, 2006, but he did not complete any elements of his treatment plan or demonstrate parental fitness. A parent's failure to comply with the parent-agency agreement may be evidence of his failure to provide proper care and custody for the child. By the same token, the parent's compliance with the parent-agency agreement is evidence of his ability to provide proper care and custody. *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003). Respondent's failure to comply with his parent-agency agreement, and failure to seek custody of or visit with Isaiah, was evidence of his failure to provide proper care and custody of the child.

Finally, the trial court did not clearly err in its best interests determination. There was no evidence in the record that it was against Isaiah's best interests to terminate respondent's parental rights. To the contrary, the evidence established that Isaiah could not have had a close, reliable relationship with respondent because Isaiah had not had any contact with respondent in over a year. In fact, prior to Isaiah's removal from his mother's care, Isaiah said that respondent did not visit him that often. It is not in Isaiah's best interests to be with someone who did not demonstrate a commitment to him and who abandoned him for over a year.

Respondent argues that Isaiah expressed a desire that respondent's parental rights not be terminated. Respondent mischaracterizes the testimony. The testimony indicated only that Isaiah wished to return to his mother's care. There was no indication that Isaiah objected to the termination of respondent's parental rights.

Affirmed.

/s/ Pat M. Donofrio

/s/ David H. Sawyer

/s/ William B. Murphy